

## **Section 3: MSFMP Draft Regulations**

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## **Chapter 1. Regulatory Actions**

### **1.1 Memo to Executive Director**

Transmittal memo signed by the Director to be sent to the Fish and Game Commission office dated July 7, 2003.

## **1.2 Initial Statement of Reasons for Regulatory Action**

Initial Statement of Reasons for Regulatory Actions to be sent to Fish and Game Commission office dated July 7, 2003.

## 1.3 Regulatory Action

### 1.3.1 Market Squid Fishery Management Plan

Article 4 of Chapter 5.5 of Subdivision 1 of Title 14, CCR is added to read:

#### **Article 4. Market Squid Fishery Management Plan.**

Section 53.00 is added to Title 14, CCR, to read:

##### **53.00. Purpose and Scope.**

(a) This article implements the Market Squid Fishery Management Plan (Market Squid FMP) as adopted and amended by the California Fish and Game Commission (commission), consistent with the requirements of Part 1.7 of Division 6 of the Fish and Game Code, (commencing with Section 7050), and Article 9.7 of the Fish and Game Code (Chapter 785, Stats. 1997; commencing with Section 8420). Regulations contained in Section 53.00 et. Seq are consistent with the goals, objectives and procedures of the Market Squid FMP and applicable federal regulations for coastal pelagic species and the federal Coastal Pelagic Species Fishery Management Plan. These regulations, in combination with other applicable provisions of the Fish and Game Code, Title 14 of the California Code of Regulations, and federal regulations for coastal pelagic species, govern management and regulations of market squid stocks and fisheries.

(b) A regulation implementing this fishery management plan that is applicable to both sport and commercial fisheries is found in this Chapter. Regulations adopted by the commission specific to recreational take and use of market squid are included with ocean sport fishing regulations in Chapter 4, beginning with Section 27.00, Title 14, CCR. Regulations specific to commercial fishing for market squid are included in Chapter 6, Section 149, Title 14, CCR.

##### **NOTE**

Authority cited: Sections 7071 and 8425, Fish and Game Code. Reference: Sections 7070, 7071, 7075, 7078, 7083, 8420, 8425, and 8429.7, Fish and Game Code.

Section 53.01 is added to Title 14, CCR, to read:

##### **53.01. Definitions.**

(a) *Brail, dip nets or scoop gear* means a type of gear employed in the commercial harvest of squid which employs the use of a hand-held or mechanical scoop deployed from the vessel.

(b) *Daily trip limit* means a routine management measure which may be used to limit take of squid on a per-vessel basis within a calendar day.

(c) *Drum seine* means a net which operates similar to a purse seine described in subsection (t), but a large drum stores, deploys, and retrieves the net.

(d) *Egg escapement* means the number or proportion of a female squid's lifetime supply of eggs that she is able to deposit, on average, before being taken in the fishery.

(e) *Egg escapement method* means a management tool which may be used to determine whether the fleet is fishing above or below a predetermined sustainable level of exploitation. The method requires establishing a threshold value to ensure that an adequate number of eggs are deposited prior to harvest.

(f) *Fishing year or fishing season* under the Market Squid FMP means the period April 1 through March 31.

(g) *Fishery Control Rules* means specific management strategies such as seasonal catch limits, daily trip limits, area closures, time closures, and sustainable levels of egg escapement which provide for a sustainable market squid fishery.

(h) *Fleet capacity goal* means an optimal number of vessels where the number of vessels matches the available squid resource.

(i) *Forage* means the role of market squid in the food chain as a critical source of food for higher predators, including birds, fish and marine mammals.

(j) *Lampara* means a round haul net with the sections of netting made and joined to create bagging. The net is pushed beneath the squid to encircle it from each side. The “wings” of the net are pulled back to the boat and the squid end up in the bag portion of the net. This gear has no arrangement for pursing.

(k) *Light boat* means a vessel engaged in the commercial taking or attempting to take market squid which uses bright lights to aggregate squid for commercial purposes or for live bait.

(l) *Market squid* means *Loligo opalescens*.

(m) *Market Squid Fishery Management Plan (Market Squid FMP)* means Chapters 1 through 5 of the Market Squid Fishery Management Plan approved by the Commission on [November 1, 2003 – April 1, 2004], hereby incorporated by reference.

(n) *National Marine Fisheries Service, NMFS or NOAA Fisheries* means the federal fisheries management agency which is contained within the United States Department of Commerce.

(o) *Overfished* is defined at Fish and Game Code Section 97.5, and in the Market Squid FMP also means a condition that may exist when either the egg escapement threshold is not met, or that catches of squid exceed any specified allowable level.

(p) *Overfishing* is defined at Fish and Game Code Section 98, and in the Market Squid FMP also means that harvests of squid are occurring at times when either the egg escapement threshold is not being met, or that catches are exceeding specified allowable levels. These catches may not be sustainable.

(q) *PFMC or Council* means the Pacific Fishery Management Council established pursuant to the Magnuson-Stevens Fishery Conservation and Management Act.

(r) *Point of concern* means one or more of the following conditions affecting market squid that, if found or are expected to exist, may trigger the application or adjustment of one or more management measures by the commission:

- (1) Catch is projected to significantly exceed the current seasonal catch limitation.
- (2) Any adverse or significant change in the biological characteristics of the market squid (age composition, size composition, age at maturity, or recruitment) is discovered.
- (3) An overfished condition exists or is imminent (defined as when the egg-escapement method threshold is not realized in two consecutive years).
- (4) Any adverse or significant change in the availability of market squid forage or in the status of a dependent species is discovered.
- (5) An error in data or a change to an indicator of stock status is detected that requires adjustment to fishery control rules to ensure sustainable resource management.

(s) *Points of concern process* means a process authorizing the commission to apply or adjust fishery management measures at any time during the year based on the confirmation of the existence of one or more resource-based points of concern identified in a fishery management plan pursuant Section 50.03 (a), Title 14, CCR.

(t) *Purse seine* means a round haul net with a purse line used to close the bottom of the net. One end is attached to a skiff and the deploying vessel encircles the squid. The other end of the net is brought up to the deploying vessel and the purse line is drawn, closing the bottom of the net to prevent the catch from escaping.

(u) *Round haul vessels* mean those that employ the use of lampara, purse seine, and drum seine net gear to commercially harvest squid.

(v) Seasonal catch limitation means a volumetric amount of allowable catch which may be taken within a designated geographic area in a fishing season, specified in short tons and excluding discard mortality. The attainment (or expected attainment) of this limit will cause closure of the directed commercial fishery as specified in regulation.

(w) Tons means short tons, and is the standard unit of weight for purposes of describing catches and limits for the market squid fishery, notwithstanding Section 50.00 (c), Title 14, CCR.

(x) Vessel capacity means the gross registered tonnage, as listed on a federal Coastal Pelagic Species permit or United States Coast Guard documentation papers.

(y) Weekend closures mean a routine management measure which may be used to prohibit take of market squid during certain days of a week.

(z) Definitions contained in Chapter 1, and Article 1 of Chapter 5.5, of Subdivision 1, Division 1, Title 14, CCR, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code, apply to the market squid fishery in addition to definitions of this section.

**NOTE**

Authority cited: Section 7071 and 8425, Fish and Game Code. Reference: Sections 7071, 7075, 7078, 7083, 7086, 8420, and 8425, Fish and Game Code.

Section 53.02 is added to Title 14, CCR, to read:

**53.02. Process and Timing.**

(a) Management of market squid stocks will conform with the goals, objectives, criteria, procedures, and Fishery Control Rule guidelines of the Market Squid FMP, and other applicable state and federal laws and regulations.

(b) Periodic monitoring and assessment of squid fisheries will be conducted, and, at a minimum, will include the collection and review of reported catches. The department will provide management recommendations to the commission as needed, and in-season if a need is identified.

(c) The director may establish and appoint members to an advisory committee to assist the department with development and review of fishery assessments, management options and proposals, and plan amendments.

(d) Management measures and actions may be developed, considered, adopted in compliance with the Administrative Procedure Act, Title 1, CCR, and implemented at any time of year to achieve management plan goals and objectives, and may apply to any or all management areas, or portions of management areas at the discretion of the commission.

**NOTE**

Authority cited: Section 7071, 7652 and 8425, Fish and Game Code. Reference: Sections 7071, 7075, 7083, 7652, 8420 and 8425, Fish and Game Code.

Section 53.03 is added to Title 14, CCR, to read:

**53.03. Market Squid Fishery Management Plan (Market Squid FMP) Project**

(a) The Department's Recommended Proposed Project in the Market Squid FMP involves a combination of limitations on total harvest, regulation on the use of squid fishing gear (including lights), use of time closures to allow for periods of uninterrupted spawning, restricted access and other limits on the commercial fleet capacity, mechanisms to allow for adequate squid escapement, and seasonal area closures designed to minimize impact to sensitive non-target species and habitat. These management measures described in the Market Squid FMP will be utilized in managing the squid fishery toward meeting goals and objectives of the Market Squid FMP.

(b) Other management measures as described in the Market Squid FMP, including but not limited to vessel trip limits, squid replenishment areas, seasonal closures, and marine protected areas may be used as needed to achieve the goals and objectives of the Market Squid FMP.

(c) A fishery management measure may be adopted by the commission instead of, or in addition to, measures included in the adopted Market Squid FMP Project where specified in statute or state or federal regulation.

**NOTE**

Authority cited: Section 7071 and 8425, Fish and Game Code. Reference: Sections 7071, 7075, 7082, 7083, 8420 and 8425, Fish and Game Code.

### **1.3.2 Commercial Taking of Market Squid**

Section 149, Title 14, CCR, is amended to read:

#### **149. Commercial Taking of Market Squid.**

##### **Item 1, Section 149 – Weekend Closures. Option A – Maintain Statewide Weekend Closures.**

(a) Fishing days. North of a westerly extension of the United States -- Republic of Mexico boundary line, market squid may not be taken for commercial purposes between 1200 hours (noon) on Friday and 1200 hours (noon) on Sunday of each week. This regulation applies to vessels catching squid or attracting squid with lights for the purpose of catching. This regulation does not apply to vessels pursuing squid for live-bait live bait purposes only or to fishing activities which result in squid landings taken pursuant to subsection (h) of this Section. Squid taken for live bait purposes pursuant to this Section shall only be sold as live bait.

##### **Item 1, Section 149 – Weekend Closures. Option B – Eliminate Statewide Weekend Closures.**

(a) Fishing days. North of a westerly extension of the United States -- Republic of Mexico boundary line, market squid may not be taken for commercial purposes between 1200 hours (noon) on Friday and 1200 hours (noon) on Sunday of each week. This regulation applies to vessels catching squid or attracting squid with lights for the purpose of catching. This regulation does not apply to vessels pursuing squid for live-bait purposes only.

##### **Item 1, Section 149 – Weekend Closures. Option C – Maintain Statewide Weekend Closures, Except in the Channel Islands National Marine Sanctuary.**

(a) Fishing days. North of a westerly extension of the United States -- Republic of Mexico boundary line, market squid may not be taken for commercial purposes between 1200 hours (noon) on Friday and 1200 hours (noon) on Sunday of each week. This regulation applies to vessels catching squid or attracting squid with lights for the purpose of catching. This regulation does not apply to vessels pursuing squid for live-bait live bait purposes only or to fishing activities which result in squid landings taken pursuant to subsection (h) of this Section. Squid taken for live bait purposes pursuant to this Section shall only be sold as live bait. This regulation does not apply to squid fishing activities within three nautical miles of shore of Anacapa Island, Santa Cruz Island, Santa Rosa Island, San Miguel Island, or Santa Barbara Island.

##### **Item 2, Section 149 – Logbooks. Option A – Maintain Current Requirements.**

(b) Records. Pursuant to Section 190 of these regulations, any person who possesses a valid mMarket sSquid vVessel pPermit, Market Squid Brail Permit, or Market sSquid lLight bBoat

owners pPermit shall complete and submit an accurate record of his/her squid fishing/lighting activities on a form (Market Squid Vessel Logbook - DFG 149a (4/99) (9/01), or Market Squid Light Boat Logbook - DFG 149b (4/99) (9/01), which are incorporated by reference herein) provided by the department, as appropriate to the type of fishing activity. Logbook records must be postmarked by the 10<sup>th</sup> day of the month following the month that fishing activity occurred. Upon completion of each set the corresponding line in the log book shall be completed prior to making the next set.

**Item 2, Section 149 – Logbooks. Option B – Eliminate Current Requirements.**

(b) Records. Pursuant to Section 190 of these regulations, any person who possesses a valid market squid vessel permit or squid light boat owners permit shall complete and submit an accurate record of his/her squid fishing/lighting activities on a form (Market Squid Vessel Logbook - DFG 149a (4/99), or Market Squid Light Boat Logbook - DFG 149b (4/99), which are incorporated by reference herein) provided by the department, as appropriate to the type of fishing activity.

**Item 3, Section 149 – Wattage Limitation. Option A – Maintain Current Requirements.**

(c) Maximum Wattage. Each vessel fishing for squid or lighting for squid will shall utilize a total of no more than 30,000 watts of lights to attract squid at any time.

**Item 3, Section 149 – Wattage Limitation. Option B – Eliminate Current Requirements.**

(c) Maximum Wattage. Each vessel fishing for squid or lighting for squid will utilize a total of no more than 30,000 watts of lights to attract squid at any time.

**Item 4, Section 149 – Light Shields. Option A – Maintain Current Requirements.**

(d) Light Shields. Each vessel fishing for squid or lighting for squid will reduce the light scatter of its fishing operations by shielding the entire filament of each light used to attract squid and orienting the illumination directly downward, or providing for the illumination to be completely below the surface of the water. The lower edges of the shields shall be parallel to the deck of the vessel and the surface of the water.

**Item 4, Section 149 – Light Shields. Option B – Eliminate Current Requirements.**

(d) Light Shields. Each vessel fishing for squid or lighting for squid will reduce the light scatter of its fishing operations by shielding the entire filament of each light used to attract squid and orienting the illumination directly downward, or providing for the illumination to be completely below the surface of the water.

**Item 5, Section 149 – Seasonal Catch Limitation. Option A – Maintain Existing Provisions for a Catch Limit; Consider Changes to the Allowable Volume.**

(e) Seasonal Harvest Guideline Catch Limitation. For the period from April 1 through March 31 of the following year, a total of not more than 125,000 [125,000] or [118,000] or [80,000] short tons of market squid may be taken statewide by vessels permitted under Section 149.1, Title 14, CCRSection 8421 of the Fish and Game Code, with the fishery closure implemented as follows:  
(1) The department shall estimate, from the current trend in landings, when the market squid harvest guideline catch limit will be reached, and will publicly announce the effective date of



closure of the directed fishery on VHF/channel 16 between the hours of 10:00 p.m. and 12:00 a.m. (midnight). It shall be the responsibility of all operators of permitted market squid vessels to monitor VHF/channel 16 to determine when the harvest guideline catch limit is expected to be reached and the fishery closed. Any announcement issued or made by the department on VHF/channel 16 shall constitute official notice.

(2) Whenever the market squid harvest guideline catch limit has been reached, market squid may be taken for commercial purposes until April 1 only pursuant to Section 8421(b) of the Fish and Game Code if the amount taken does not exceed two tons landed in a calendar day or if the squid taken is used for live bait only.

**Item 5, Section 149 – Seasonal Catch Limitation. Option B – Eliminate Existing Provisions.**

(e) Seasonal Harvest Guideline. For the period from April 1 through March 31 of the following year, a total of not more than 125,000 short tons of market squid may be taken by vessels permitted under Section 8421 of the Fish and Game Code, with the fishery closure implemented as follows:

(1) The department shall estimate, from the current trend in landings, when the market squid harvest guideline will be reached, and will publicly announce the effective date of closure of the directed fishery on VHF/channel 16 between the hours of 10:00 p.m. and 12:00 a.m. (midnight). It shall be the responsibility of all operators of permitted market squid vessels to monitor VHF/channel 16 to determine when the harvest guideline is expected to be reached and the fishery closed. Any announcement issued or made by the department on VHF/channel 16 shall constitute official notice.

(2) Whenever the market squid harvest guideline has been reached, market squid may be taken for commercial purposes until April 1 only pursuant to Section 8421(b) of the Fish and Game Code.

**Item 5, Section 149 – Seasonal Catch Limitation. Option C – Use El Niño Events to Determine the Allowable Harvest Level.**

(e) Seasonal Harvest Guideline Catch Limitation. For the period from April 1 through March 31 of the following year, a total of not more than 125,000 ~~115,000~~ short tons of market squid may be taken statewide during a non-El Niño period and not more than 11,000 short tons statewide during an El Niño period by vessels permitted under Section 149.1(b), Title 14, CCRSection 8421 of the Fish and Game Code, with ~~the~~ fishery closure shall be implemented as follows:

(1) The department shall estimate, from the current trend in landings, when the market squid harvest guideline catch limit will be reached, and will publicly announce the effective date of closure of the directed fishery on VHF/channel 16 between the hours of 10:00 p.m. and 12:00 a.m. (midnight). It shall be the responsibility of all operators of permitted market squid vessels to monitor VHF/channel 16 to determine when the harvest guideline catch limit is expected to be reached and the fishery closed. Any announcement issued or made by the department on VHF/channel 16 shall constitute official notice.

(2) Whenever the market squid harvest guideline catch limit has been reached, market squid may be taken for commercial purposes until April 1 only pursuant to Section 8421(b) of the Fish and Game Code if the amount taken does not exceed two tons landed in a calendar day or if the squid taken is used for live bait only.

(3) A period is defined as an El Niño period when the NOAA Administrator for Fisheries publishes a notice that El Niño conditions are present in California coastal waters, and the condition must be described as moderate or greater than moderate in magnitude. Such notice must be published by February 28 of any calendar year in order to be effective for a squid fishing season which begins on April 1 of that calendar year. Should the notice be revoked or updated to a lesser El

Niño condition during the course of the fishing season, the Department may revert to the non-El Niño catch limit, and provide written notification to all commercial squid permittees.

**Item 5, Section 149 – Seasonal Catch Limitation. Option D – Establish Limits Regionally.**

(e) Seasonal Harvest Guideline Regional Catch Limitations. For the period from April 1 through March 31 of the following year, a total of not more than 125,000 [7,600] or [5,500] or [6,000] short tons of market squid may be taken in waters north of a line running due west true of Point Conception to the California-Oregon border by vessels permitted under Section 149.1, Title 14, CCR. Section 8421 of the Fish and Game Code, with the f. For the period from April 1 through March 31 of the following year, a total of not more than [65,500] or [69,600] or [111,600] short tons of market squid may be taken in waters south of a line running due west true of Point Conception to the United States-Mexico border by vessels permitted under Section 149.1, Title 14, CCR. Fishery closures shall be implemented as follows:

(1) The department shall estimate, from the current trend in landings, when the market squid harvest guideline catch limit will be reached, and will publicly announce the effective date of closure of the directed fishery on VHF/channel 16 between the hours of 10:00 p.m. and 12:00 a.m. (midnight). It shall be the responsibility of all operators of permitted market squid vessels to monitor VHF/channel 16 to determine when the harvest guideline catch limit is expected to be reached and the fishery closed. Any announcement issued or made by the department on VHF/channel 16 shall constitute official notice.

(2) Whenever the market squid harvest guideline has been reached, market squid may be taken for commercial purposes until April 1 only pursuant to Section 8421(b) of the Fish and Game Code if the amount taken does not exceed two tons landed in a calendar day or if the squid taken is used for live bait only.

**Item 6, Section 149 – Option to Add Daily Trip Limits.**

(f) Daily Trip Limits. For the purposes of this section, a daily trip limit of market squid applies to the harvesting, offloading, delivering, transporting or landing operations and activities aboard a permitted vessel during one calendar day.

(1) For vessels employing the use of round haul gear, not more than [30-137.8] short tons of market squid may be taken per calendar day.

(2) For vessels employing the use of brail or scoop gear, not more than 15 short tons of market squid may be taken per calendar day.

**Item 7, Section 149 – Options to Add Seasonal Closure Areas for Seabird Protection and/or Harvest Replenishment Areas.**

(g) Closed Times and Areas.

(1) Seasonal Closures. [Market squid may not be taken for commercial purposes] or [Market squid may not be taken for commercial purposes utilizing attracting lights] around [San Miguel Island, Anacapa Island, and Santa Barbara Island] or [Anacapa Island and Santa Barbara Island] from 1 February through 30 September as specified in this subsection. This regulation applies to vessels catching squid or attracting squid with lights for the purpose of catching. This regulation also applies to vessels pursuing squid for live bait purposes.

(A) Anacapa Island: From the western point of West Island, 34° 00.8' N., 119° 26.7' W. extending out one nautical mile from the high water mark counterclockwise to Arch Rock, 34° 01.0' N., 119° 21.4' W.

(B) Santa Barbara Island: From the eastern tip of the island, 33° 28.5' N., 119° 01.7' W. extending out one nautical mile from the high water mark counterclockwise to the southern tip of the island, 33° 27.9' N., 119° 02.2' W.

(C) San Miguel Island: From the marker poles in Simonton Cove 34° 03.1' N., 120° 23.3' W. extending out one nautical mile from the high water mark counterclockwise to Adams Cove, 34° 01.8' N., 120° 26.6' W.

(D) San Miguel Island: From Judith Rock, 34° 01.5' N., 120° 25.3' W. extending out one nautical mile from the high water mark counterclockwise to Cardwell Point, 34° 01.8' N., 120° 18.4' W.

(2) Harvest Replenishment Areas. Market squid may not be taken for commercial purposes in contiguous waters less than 100 fathoms in depth around San Nicholas Island.

**Item 8, Section 149 – Option to Allow for Incidental Take.**

(h) Incidental Allowance. It is unlawful to take, land, or possess in excess of two tons of squid per calendar day except as authorized under market squid vessel or market squid brail permits described in Section 149.1(b), or for purposes of live bait only. Furthermore, it is unlawful to possess in excess of two tons of incidentally taken squid per trip or per calendar day except as authorized under market squid vessel or market squid brail permits described in Section 149.1(b).

**Item 9, Section 149 – Option to Specify Forfeiture Process.**

(i) Forfeiture. Squid landed in excess of the limit specified in subsection (h) above without a Market Squid Vessel Permit or a Market Squid Brail Permit described in Section 149.1(b) shall be forfeited to the department by the signing of an official release of property form. The squid shall be sold or disposed of in a manner to be determined by the department. The proceeds from all sales shall be paid into the Fish and Game Preservation Fund.

**Item 10, Section 149 – Option to Clarify Authorized Use of Light to Aggregate Squid.**

(j) Use of Lights to Aggregate Squid. It is unlawful to attract squid by light except as authorized under permits described in Section 149.1(b). This regulation does not apply to seine skiffs of a permitted vessel, or to vessels pursuing squid for live-bait purposes only.

**Item 11, Section 149 – Option to Clarify to Whom Violations of this Section May be Issued.**

(k) Violations of this Section shall be issued to the vessel operator and/or the holder of a market squid permit issued pursuant to Section 149.1, Title 14, CCR.

**NOTE**

Authority: Sections 7701, 7708, 7923, 8026, 8420.5, 8425 and 8429.5, Fish and Game Code.

Reference: Sections 7701, 7708, 7923, 8026, 8420.5, 8425, 8429.5 and 8426 8429.7, Fish and Game Code.

Section 149.1, Title 14, CCR, is added to read:

**149.1 Market Squid Fishery Restricted Access Program.**

(a) Permit Required. On and after April 1, 2004, any vessel engaged in taking squid, landing squid, or attracting squid by light for commercial purposes, except as provided in Section 149(h), shall have a valid market squid permit issued to the owner, partnership, or corporation.

(b) Classification of Permits and Permit Authorization.

(1) A Market Squid Vessel Permit is required for the commercial harvest of squid, and authorizes only the use of round haul gear including purse seine, drum seine and lampara nets, and brail gear, including dip and scoop nets. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest by the permitted vessel, however, lighting for purposes of commercial harvest by other vessels is not authorized. No other commercial gear is authorized under this permit to take or assist in the taking of market squid. Market Squid Vessel Permits are designated [as either transferable or non-transferable] or [as transferable] or [as non-transferable] as described in subsection (o) below.

(2) A Market Squid Brail Permit is required for the commercial harvest or lighting of squid, and authorizes only the use of brail gear including dip and scoop nets. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest. No other commercial gear is authorized under this permit to take or assist in the taking of market squid. Market Squid Brail Permits are designated [as either transferable or non-transferable] or [as transferable] or [as non-transferable] as described in subsection (o) below.

(3) A Market Squid Light Boat Permit authorizes only the use of lights as specified in regulation to aggregate squid for purposes of commercial harvest. No other commercial gear is authorized under this permit to take or assist in the taking of market squid. Market Squid Light Boat Permits are transferable as described in subsection (o) below.

(4) Only one market squid permit, regardless of the class of permit as described in this subsection, may be issued per vessel.

(c) Initial Issuance Criteria. In order to be issued a permit for a vessel of any permit class, the owner, partnership or corporation which is the lawful owner of the vessel must provide current proof of ownership at the time of application. Permits as described in subsection (b) shall be issued only to the following persons, partnerships or corporations for use on qualifying vessels meeting the specified initial issuance criteria for each class of permit:

(1) Market Squid Vessel Permit – Transferable.

(A) The individual, partnership or corporation must be the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) have been issued a Market Squid Vessel Permit for the 2003-04 permit year that has not been suspended or revoked, and

(C) have made at least [50 - 150] landings of market squid from January 1, 1990, through [November 12, 1999 - December 31, 2002] as documented by department fish landing receipts submitted in the vessel's name and identification number pursuant to Fish and Game Code Section 8046.

(2) Market Squid Vessel Permit – [Non-Transferable] or [Transferable].

(A) The individual must be the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) consistent with Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and

(C) does not own a vessel that has been issued a permit pursuant to criteria in subsection (c)(1), (c)(3), (c)(4) or (c)(5) nor is a partner nor a shareholder in a corporation which owns a vessel which has been issued a permit pursuant to criteria in subsection (c)(1), (c)(3), (c)(4) or (c)(5).

This provision does not apply to cases where the individual is the holder of two or more Market Squid Vessel or Squid Light Boat Owner's Permits issued for the 2003-04 permit year which have not been suspended or revoked. And

(D) has made at least [33 - 50] landings of market squid as documented by department fish landing receipts submitted in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, during any one licensed year.

(3) Market Squid Brail Permit – Transferable.

(A)The individual, partnership, or corporation must be the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) have been issued a Market Squid Vessel Permit for the 2003-04 permit year that has not been suspended or revoked, and

(C) have made at least [5-25] landings of market squid with brail gear from January 1, 1990, through [November 12, 1999 - December 31, 2002] as documented by department fish landing receipts submitted in the vessel's name and identification number pursuant to Fish and Game Code Section 8046.

(4) Market Squid Brail Permit – [Non- Transferable] or [Transferable].

(A)The individual must be the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) consistent with Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and

(C) does not own a vessel that has been issued a permit pursuant to criteria in subsection (c)(1), (c)(2), (c)(4) or c(5) nor is a partner nor a shareholder in a corporation which owns a vessel which has been issued a permit pursuant to criteria in subsection (c)(1), (c)(2), (c)(4) or c(5). This provision does not apply to cases where the individual is the holder of two or more Market Squid Vessel or Squid Light Boat Owner's Permits issued for the 2003-04 permit year which have not been suspended or revoked. And

(D) has made at least 10 landings of market squid with brail gear as documented by department fish landing receipts submitted in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, during any one licensed year

(5) Market Squid Light Boat Permit – Transferable.

(A)The individual, partnership or corporation must be the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) have been issued a Market Squid Vessel Permit or a Squid Light Boat Owner's Permit for the 2003-04 permit year that has not been suspended or revoked, and

(C) have submitted to the department, pursuant to Section 149(b) and Section 190, Title 14, CCR, at least one market squid light boat logbook form (DFG 149b) with fishing activity dated on or prior to [December 31, 2000 – December 31, 2002].

(6) Non-Transferable Market Squid Vessel Permits and Non-Transferable Market Squid Brail Permits may only be issued to individuals, and may not be issued to partnerships or corporations, although at the time of issuance the permit may be placed on a vessel which is owned by a partnership or corporation.

(d) Application Deadlines for Initial Permit Issuance. All applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the department, or, if mailed, postmarked on or before June 30, 2004. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from July 1 through July 31, 2004 will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department or postmarked after August 1, 2004 will be denied by the department and returned to the applicant.

(e) Annual Permit Renewal. On and after April 1, 2005, Market Squid Vessel Permits, Market Squid Brail Permits and Market Squid Light Boat Permits will be issued annually by the department only to those persons who have held the same class of permit in the immediately preceding permit year. Upon the death of the individual to whom a Non-Transferable Market

Squid Vessel Permit or Non-Transferable Market Squid Brail Permit is issued, the permit shall be considered expired and permit renewal criteria specified in this subsection shall not apply.

(f) Application Deadlines for Annual Permit Renewal. All applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from May 1 through May 31 of each permit year will be assessed a \$250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits received by the department or postmarked after May 31 of each permit year will be denied by the department and returned to the applicant.

(g) Appeals.

(1) Initial Issuance Appeals.

(A) Any applicant who is denied initial issuance of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit by the department pursuant to subsection (c) may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked within 60 days of the department's denial.

(B) Appeals for initial permit issuance may be based upon, but not limited to, medical conditions, vessel condition, landings of squid during and outside the window period described in subsection (c) above, landings made on a vessel that is currently not permitted, economic conditions in the fishery, home port areas and areas of history fishery concentration, historic participation levels in the California market squid fishery, oceanographic conditions and associated low availability of squid in the California area during El Niño years, inability to record light boat activity on a market squid logbook required pursuant to Section 149, Title 14, CCR, and incapacity of the vessel to participate in the fishery.

(2) Renewal Appeals. Any applicant who is denied renewal of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(3) Transfer Appeals. Any applicant who is denied transfer of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked within 60 days of the date of the department's denial. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(h) Permit and Transfer Fees.

(1) The department shall charge an annual fee for a permit of each permit class as follows:

(A) Market Squid Vessel Permit – Transferable - [four hundred dollars (\$400) – five thousand dollars (\$5,000)].

(B) Market Squid Vessel Permit – Non-Transferable - [four hundred dollars (\$400) – five thousand dollars (\$5,000)].

(C) Market Squid Brail Permit – Transferable - [four hundred dollars (\$400) – five thousand dollars (\$5,000)].

(D) Market Squid Brail Permit – Non-Transferable - [four hundred dollars (\$400) – five thousand dollars (\$5,000)].

(E) Market Squid Light Boat Permit – Transferable - [four hundred dollars (\$400) – five thousand dollars (\$5,000)].

(2) The department shall charge a non-refundable fee of [two hundred fifty dollars (\$250) – one thousand dollars (\$1000)] for each permit transfer. If more than one permit is involved in the transfer based on provisions defined in subsection (o), a total of [two hundred fifty dollars (\$250) – one thousand dollars (\$1000)] shall be charged for the transaction.

(i) Permit Revocation.

(1) A Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit shall be revoked if false information is provided by the permittee to obtain or maintain the permit, or if recordkeeping requirements specified in Fish and Game Code Section 8026 or Section 149, Title 14, CCR were found to be violated.

(2) A Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of regulations contained in Section 149, Title 14, CCR, or violation of the terms and conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

(j) Designated Operator. If a Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by a bona fide partnership or corporation, that partnership or corporation shall designate the individual who is the operator and shall provide that information to the department annually at the time the application is made for initial issuance or renewal.

(k) Dissolution of Partnership or Corporation. If a transferable Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by a bona fide partnership or corporation which becomes dissolved, the partnership or corporation shall notify the department of the name of the partner or shareholder who is the successor permitholder and the department shall reissue the permit to that partner or shareholder.

(l) Transfer of Vessel Ownership.

(1) If a transferable Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by an individual or by a bona fide partnership or corporation, and the individual, bona fide partnership, or corporation transfers the title of ownership of the vessel to another entity, the original entity to which the permit is issued must notify the department of the change in ownership, and submit a non-refundable transfer fee of [two hundred fifty dollars (\$250) – one thousand dollars (\$1000)] dollars.

(2) Non-Transferable Market Squid Vessel Permits and Non-Transferable Market Squid Brail Permits which are issued to individual vessel owners cannot be transferred to a new owner, should the vessel be sold or acquired by another owner. Sale or transfer of ownership of a permitted vessel shall result in cancellation of the permit by the department.

(m) Capacity Goals.

(1) The capacity goal for [transferable and non-transferable] or [transferable] or [non-transferable] Market Squid Vessel Permits is [10-104].

(2) The capacity goal for [transferable and non-transferable] or [transferable] or [non-transferable] Market Squid Brail Permits is 18.

(3) The capacity goal for [transferable and non-transferable] or [transferable] or [non-transferable] Market Squid Light Boat Permits is [10-104].

(4) The capacity goal for [transferable and non-transferable] or [transferable] or [non-transferable] Market Squid Brail Permits and Market Squid Light Boat Permits combined shall equal the capacity goal for Market Squid Vessel Permits established in this subsection.

(5) Should the number of Market Squid Vessel Permits, Market Squid Brail Permits, or Market Squid Light Boat Permits issued by the department fall below the capacity goal for that permit class, the commission may prescribe criteria for issuance of additional permits of that class.

which may include but is not limited to previous issuance of market squid vessel, brail or light boat permits, market squid catch or market squid logbook histories.

(n) Gross Tonnage Endorsement. Each Market Squid Vessel Permit or Market Squid Brail Permit shall be endorsed with the gross tonnage at the time of initial issuance. Any vessel owner seeking to obtain a Market Squid Vessel Permit or Market Squid Brail Permit through transferability provisions defined in subsection (o) shall also provide gross tonnage information for the replacement vessel as described below.

(1) The gross tonnage shall be determined as follows:

(A) If the owner of the vessel holds a Federal Coastal Pelagic Species Permit issued by the National Marine Fisheries Service for that vessel, the owner of the vessel shall submit a copy of their current valid Federal Coastal Pelagic Species Permit with its endorsed gross tonnage.

(B) If the owner of the vessel does not hold a Federal Coastal Pelagic Species Permit for the vessel, the gross tonnage will be determined by multiplying the length (L), breadth (B), and depth (D) of the vessel by 0.0067. Records of length, breadth, and depth used for determining gross tonnage will be those recorded on the vessel's United States Coast Guard documentation paper.

(2) The gross tonnage endorsement will remain in effect for the lifetime of each permit, regardless of the gross tonnage of a vessel to which it was transferred.

(3) In cases where a permit is transferred to a vessel with a smaller gross tonnage, the original gross tonnage endorsement will remain, and excess gross tonnage cannot be split out from the original permit endorsement for any purpose.

(4) In cases where two or more permits are transferred to a replacement vessel pursuant to guidelines in subsection (o), the replacement vessel shall be issued a transferable permit which reflects a gross tonnage endorsement which is recorded as the sum of the gross tonnage endorsements from the original vessels.

(o) Permit Transferability.

(1) Conditions for permit transferability as defined in this subsection shall provide the mechanism for achieving the capacity goals defined in subsection (m) of this Section over time.

(2) Definitions of Comparable Capacity.

(A) For purposes of permit transferability described in this subsection, two vessels are of comparable capacity if the gross tonnage, as defined in subsection (n) of this Section, of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel [the replacement vessel's gross tonnage does not exceed the sum of (the gross tonnage of the original vessel and  $(0.1 * \text{the gross tonnage of the original vessel})$ )].

(B) A replacement vessel shall be considered of comparable capacity in cases of permit transfers from a vessel where the gross tonnage of the original vessel as defined in subsection (n) of this Section exceeds the gross tonnage of the replacement vessel by any amount. Gross tonnage endorsement provisions for the replacement vessel defined in subsection (n) shall apply.

(3) After August 31, 2004, the following conditions for transferability will be in effect for permits in each class as described:

(A) A Transferable Market Squid Vessel Permit issued to an individual, partnership or corporation may be transferred to another entity who is the owner of [a replacement commercial fishing vessel] or [a replacement commercial fishing vessel of comparable capacity as defined in this subsection].

(B) If transfer is sought of a Transferable Market Squid Vessel Permit for a replacement commercial fishing vessel which is not of comparable capacity as defined in this subsection, one additional Transferable Market Squid Vessel Permit shall be purchased and surrendered to the department at the time of the transfer.

(C) A Transferable Market Squid Brail Permit issued to an individual, partnership or corporation may be transferred to another entity who is the owner of [a replacement commercial fishing vessel] or [a replacement commercial fishing vessel of comparable capacity as defined in this subsection].



(D) A Transferable Market Squid Light Boat Permit issued to an individual, partnership or corporation may be transferred to another entity [(who is the owner of a replacement commercial fishing vessel) or (who is the owner of a replacement commercial fishing vessel if an additional market squid light boat permit is also purchased and surrendered to the department at the time of the transfer)].

(E) Purchase of a Transferable Market Squid Brail Permit by an individual who holds a Transferable Market Squid Light Boat Permit may occur with surrender of (one-three) additional Transferable Market Squid Light Boat Permits.

(4) The applicant for transfer must be the owner of a replacement commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application.

(5) An application for transfer of a squid permit of any class shall be submitted to the department by the replacement vessel owner in the form of a notarized letter, and shall include a copy of the permit or permits which are being sought for transfer, current proof of vessel ownership, and gross tonnage information as described in subsection (n) if applicable.

(6) Any market squid permit holder intending to sell his permit shall submit a notarized letter to the department setting forth the conditions of the sale, and shall specify that the terms of the transfer as documented by the replacement vessel owner are valid and true.

(7) Upon determining that the applicant is qualified to transfer the permit to a replacement vessel and upon payment of all permit and transfer fees, the department shall issue the applicable permit to the owner of the replacement vessel that is valid for the remainder of the fishing season once the original permit or permits are surrendered to the department. Gross tonnage endorsement provisions defined in subsection (n) above shall apply.

(8) At the time the permit transfer is complete, vessels previously authorized to fish under conditions of a surrendered permit shall not take or attract squid for commercial purposes unless otherwise authorized in regulation or statute.

**Alternative language to subsections (b) and (c), permit classes and initial issuance criteria (FMP options I2 and I3, which maintain existing moratorium permit classes and criteria)**

(b) Classification of Permits and Permit Authorization.

(1) A Market Squid Vessel Permit is required for the commercial harvest of squid, and authorizes only the use of round haul gear including purse seine, drum seine and lampara nets, and brail gear, including dip and scoop nets. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest. No other commercial gear is authorized under this permit to take or assist in the taking of market squid. Market Squid Vessel Permits are transferable only as described in subsection (o) below.

(2) A Market Squid Light Boat Permit authorizes only the use of lights as specified in regulation to aggregate squid for purposes of commercial harvest. No other commercial gear is authorized under this permit to take or assist in the taking of market squid. Market Squid Light Boat Permits are transferable only as described in subsection (o) below.

(3) Only one market squid permit, regardless of the class of permit as described in this subsection, may be issued per vessel.

(c) Initial Issuance Criteria. In order to be issued a permit for a vessel of any permit class, the owner, partnership or corporation which is the lawful owner of the vessel must provide current proof of ownership at the time of application. Permits as described in subsection (b) shall be issued only to the following persons, partnerships or corporations for use on qualifying vessels meeting the specified initial issuance criteria for each class of permit:

(1) Market Squid Vessel Permit.

(A) The individual, partnership or corporation must be the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) have been issued a Market Squid Vessel Permit for the (2003-04) or (1998-99) permit year that has not been suspended or revoked.

(2) Market Squid Light Boat Permit.

(A) The individual, partnership or corporation must be the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) have been issued a Squid Light Boat Owner's Permit for the (2003-04) or (1998-99) permit year that has not been suspended or revoked.

**Alternative to subsection (o), permit transferability (FMP Options K1, L1, and M1, which maintain moratorium provisions)**

(o) Conditions for Permit Transfer.

(1) Definitions of Comparable Capacity.

(A) For purposes of permit transferability described in this subsection, two vessels are of comparable capacity if the gross tonnage, as defined in subsection (n) of this Section, of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel [the replacement vessel's gross tonnage does not exceed the sum of (the gross tonnage of the original vessel and  $(0.1 * \text{the gross tonnage of the original vessel})$ )].

(B) A replacement vessel shall be considered of comparable capacity in cases of permit transfers from a vessel where the gross tonnage of the original vessel as defined in subsection (n) of this Section exceeds the gross tonnage of the replacement vessel by any amount. Gross tonnage endorsement provisions for the replacement vessel defined in subsection (n) shall apply.

(2) Provisions.

(A) A Market Squid Vessel Permit issued to an individual, partnership or corporation may be transferred to a replacement commercial fishing vessel of comparable capacity as defined in this subsection only if the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown.

(B) A Market Squid Brail Permit issued to an individual, partnership or corporation may be transferred to a replacement commercial fishing vessel of comparable capacity as defined in this subsection only if the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown.

(C) A Market Squid Light Boat Permit issued to an individual, partnership or corporation may be transferred to a replacement commercial fishing vessel as defined in this subsection only if the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown.

(3) Only the permit holder at the time of the loss, theft, destruction, or mechanical breakdown of the vessel may apply for the transfer of the vessel permit. The applicant must be the owner of a replacement commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application.

(4) An application for transfer of a squid permit under provisions of this subsection of any permit class shall be submitted to the department by the permit holder in the form of a notarized letter, and shall include a copy of the permit which is intended for transfer, current proof of both original and replacement vessel ownership, and gross tonnage information as described in subsection (n) if applicable. The application must also include:

(A) proof that the permitted vessel is lost, stolen, or destroyed in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss, or

(B) in case of mechanical breakdown, the application shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard.

(5) The department shall not issue a permit for a replacement vessel pursuant to this subsection if the permitted vessel was reported, lost, stolen, destroyed, or damaged for fraudulent purposes.

(6) Upon determining that the applicant is qualified to transfer the permit to a replacement vessel and upon payment of all permit and transfer fees, the department shall issue the applicable permit for the replacement vessel that is valid for the remainder of the fishing season once the original permit is surrendered to the department. Gross tonnage endorsement provisions defined in subsection (n) above shall apply.

(7) At the time the permit transfer is complete, vessels previously authorized to fish under conditions of a surrendered permit shall not take or attract squid for commercial purposes unless otherwise authorized in regulation or statute.

NOTE

Authority: Sections 7078, 7923, 8026, 8425 and 8429.5, Fish and Game Code. Reference: Sections 7050, 7701, 7708, 7923, 8026, 8081, 8425 and 8429.5, 8429.7, Fish and Game Code.

Section 149.2, Title 14, CCR is added to read:

**149.2 Permits for Taking of Market Squid for Sale as Live Bait.**

Permit Required. On and after April 1, 2005, any owner of a vessel which takes market squid for live bait purposes shall have a valid Market Squid Live Bait Permit for that vessel that has not been suspended or revoked.

NOTE

Authority: Sections 7078, 7923, 8026, 8425 and 8429.5, Fish and Game Code. Reference: Sections 7050, 7701, 7708, 7923, 8026, 8081, 8425 and 8429.5, 8429.7, Fish and Game Code.